

ASSEMBLY BILL

No. 855

Introduced by Assembly Member Bass

February 18, 2005

An act to add Section 18917 to, and to repeal and add Section 11251.3 of, the Welfare and Institutions Code, relating to CalWORKs, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 855, as introduced, Bass. CalWORKs.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program for the allocation of federal funds received through the TANF program, under which each county provides cash assistance and other benefits to qualified low-income families.

Existing law provides for the Food Stamp Program, under which each county distributes food stamps provided by the federal government to eligible households.

Under federal law, an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance, as defined, shall not be eligible for assistance under any state program funded under provisions of federal law regarding the TANF program or benefits under the Food Stamp Program or any state program carried out under the Food Stamp Act of 1977. Existing law authorizes a state to exempt any or all individuals domiciled in the state from the application of those prohibitions.

Existing law provides that an individual who has been convicted in state or federal court of a felony that has as an element the possession, use, or distribution of a controlled substance, as defined under federal law or the California Uniform Controlled Substances Act, is ineligible for aid under the CalWORKs program or the Food Stamp Program.

This bill would, instead, provide that, with certain exceptions, a person convicted of drug-related felonies shall be eligible to receive CalWORKs or food stamp benefits if he or she meets certain conditions of eligibility.

By revising standards of eligibility for benefits under the CalWORKs program and the Food Stamp Program, this bill would increase the responsibilities of counties, and would impose a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county aid grant costs under the CalWORKs program.

By expanding eligibility under the CalWORKs program, this bill would constitute an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11251.3 of the Welfare and Institutions
- 2 Code, as added by Section 1 of Chapter 283 of the Statutes of
- 3 1997, is repealed.
- 4 ~~11251.3. (a) An individual shall be ineligible for aid under~~
- 5 ~~this chapter if the individual has been convicted in state or~~
- 6 ~~federal court after December 31, 1997, including any plea of~~
- 7 ~~guilty or nolo contendere, of any offense classified as a felony~~
- 8 ~~and that has as an element of the possession, use, or distribution~~

1 of a controlled substance, defined in Section 102(6) of the
2 Controlled Substance Act (21 U.S.C. Sec. 802(6)).

3 (b) For a family receiving aid under this chapter that includes
4 an individual who is ineligible pursuant to subdivision (a), a
5 county shall issue vouchers or vendor payments for at least rent
6 and utilities payments.

7 SEC. 2. Section 11251.3 of the Welfare and Institutions Code,
8 as added by Section 1 of Chapter 284 of the Statutes of 1997, is
9 repealed.

10 11251.3. (a) An individual shall be ineligible for aid under
11 this chapter if the individual has been convicted in state or
12 federal court after December 31, 1997, including any plea of
13 guilty or nolo contendere, of a felony that has as an element the
14 possession, use, or distribution of a controlled substance, defined
15 in Section 102(6) of the Controlled Substances Act (21 U.S.C.
16 Sec. 802(6)) or Division 10 (commencing with Section 11000) of
17 the Health and Safety Code.

18 (b) For a family receiving aid under this chapter that includes
19 an individual who is ineligible pursuant to subdivision (a), a
20 county shall issue vouchers or vendor payments for at least rent
21 and utilities payments.

22 SEC. 3. Section 11251.3 is added to the Welfare and
23 Institutions Code, to read:

24 11251.3. (a) Subject to the limitations of subdivisions (b), (c)
25 and (d), pursuant to Section 115(d)(1)(A) of Public Law 104-193
26 (21 U.S.C. Sec. 862a(d)(1)(A)), California opts out of the
27 provisions of Section 115(a) of Public Law 104-193 (21 U.S.C.
28 Sec. 862a(a)(1)), and persons convicted of drug-related felonies
29 shall be eligible to receive CalWORKs under this section.

30 (b) Subdivision (a) does not apply to a person who has been
31 convicted of unlawfully transporting, importing into this state,
32 selling, furnishing, administering, giving away, possessing for
33 sale, purchasing for purposes of sale, manufacturing a controlled
34 substance, possessing precursors with the intent to manufacture a
35 controlled substance, or cultivating, harvesting, or processing
36 marijuana or any part thereof pursuant to Section 11358 of the
37 Health and Safety Code.

38 (c) Subdivision (a) does not apply to a person who has been
39 convicted of unlawfully soliciting, inducing, encouraging, or

1 intimidating a minor to participate in any activity listed in
2 subdivision (b).

3 (d) As a condition of eligibility to receive CalWORKs
4 pursuant to subdivision (a), an applicant convicted of a
5 drug-related felony that is not excluded under subdivision (b) or
6 (c) shall be required to provide proof of one of the following
7 subsequent to the most recent drug-related conviction:

8 (1) Completion of a government-recognized drug treatment
9 program.

10 (2) Participation in a government-recognized drug treatment
11 program.

12 (3) Enrollment in a government-recognized drug treatment
13 program.

14 (4) Placement on a waiting list for a government-recognized
15 drug treatment program.

16 (5) Other evidence that the illegal use of controlled substances
17 has ceased, as established by the State Department of Social
18 Services regulations.

19 (e) Notwithstanding the Administrative Procedure Act
20 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
21 Division 3 of Title 2 of the Government Code), the department
22 may implement this section through an all-county letter or similar
23 instructions from the director no later than January 1, 2006.

24 (f) (1) The department shall adopt regulations as otherwise
25 necessary to implement this section no later than July 1, 2006.
26 Emergency regulations adopted for implementation of this
27 section may be adopted by the director in accordance with the
28 Administrative Procedure Act.

29 (2) The adoption of emergency regulations shall be deemed to
30 be an emergency and necessary for immediate preservation of the
31 public peace, health and safety, or general welfare. The
32 emergency regulations shall be exempt from review by the Office
33 of Administrative Law. The emergency regulations authorized by
34 this section shall be submitted to the Office of Administrative
35 Law for filing with the Secretary of State and shall remain in
36 effect for no more than 180 days.

37 SEC. 4. Section 18917 is added to the Welfare and
38 Institutions Code, to read:

39 18917. (a) Subject to the limitations of subdivisions (b), (c),
40 and (d) of Section 11251.3, pursuant to Section 115(d)(1)(A) of

1 Public Law 104-193 (21 U.S.C. Sec. 862a(d)(1)(A)), California
2 opts out of the provisions of Section 115(a)(2) of Public Law
3 104-193 (21 U.S.C. Sec. 862a(a)(2), and persons convicted of
4 drug-related felonies shall, upon meeting any other applicable
5 conditions of eligibility, be eligible to receive food stamps.

6 (b) The department may implement this section in the same
7 manner as specified in subdivisions (e) and (f) of Section
8 11251.3.

9 SEC. 5. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.